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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,461	05/18/2000	Roger J. Talish	601-61	6818

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EXAMINER

SHAH, DEVAANG

ART UNIT PAPER NUMBER

3737

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/574,461

Applicant(s)

TALISH ET AL.

Examiner

Devaang Shah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-29 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,8-14,17 and 18 is/are rejected.
- 7) ☒ Claim(s) 3,5-7,15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 2 of claim 14, "angle θ " is non-specific and could result in any orientation of electromagnetic coil with any axis of the ultrasonic transducer(s).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 8, 9-13, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,578,060 to Pohl et al. in view of U.S. Patent No. 6,261,221 to Tepper et al. Referring to claims 1, 2, 9-13, and 18, Pohl et al. disclose a physical therapy apparatus. The apparatus includes means for ultrasonic and electrical stimulation disposed in a housing that can be portable (column 3, lines 4-7; column 6, lines 13-17). Ultrasonic and electrical therapy may be applied simultaneously, or independent of one another using a control unit. Parameters such as magnitude are

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variable (column 8, lines 66-67; column 9, lines 1-16; figures 2-4). Pohl et al. do not disclose the use of an electromagnetic coil assembly.

Tepper et al. disclose a flexible coil pulsed (non-uniform) electromagnetic field (PEMF) stimulation therapy system. The system consists of a single PEMF coil disposed in a portable housing adapted to be worn by a patient (column 4, lines 8-50; figures 1-3). The housing contains a power unit (column 2, lines 50-54). It would have been obvious to one having ordinary skill in the art at the time of the invention to use the portable PEMF system of Tepper et al. with the ultrasonic transducer and control system of Pohl et al. Pohl et al. disclose the possibility of portable housing that would include means for both electrical and ultrasonic therapy, along with a control system to independently or simultaneously control the electrical and ultrasonic means.

3. Referring to claim 4, Tepper et al. include an embodiment in which the coil is wrapped around the placement module (figure 5A).

Allowable Subject Matter

4. Claims 19-29 are allowed.

5. Claims 3, 5-7, 15, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent No. 6,179,797 B1 to Brotz

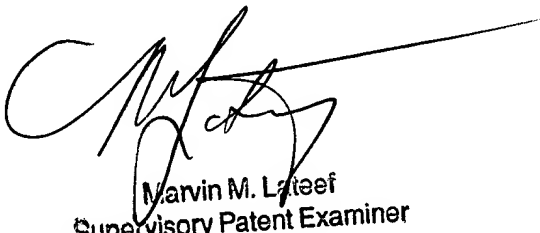
U.S. Patent No. 6,068,596 to Weth et al.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devaang Shah whose telephone number is 703-306-0333. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on 703 308-3256. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

DS *D.S.*
June 1, 2002


Marvin M. Lateef
Supervisory Patent Examiner
Group 3700